

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

DWIGHT WAYNE ROGERS, JR., #1547330 §
§
VS. §
§
DIRECTOR, TDCJ-CID §

CIVIL ACTION NO. 4:19cv1

ORDER OF DISMISSAL

This case was referred to United States Magistrate Judge Christine A. Nowak, who issued a Report and Recommendation concluding that the petition for writ of habeas corpus should be dismissed without prejudice as successive. Petitioner filed objections.

In his objections, Petitioner claims he is not contesting his conviction again, but rather, is contesting the State's review of his case. He argues the Court has jurisdiction because this is not a successive filing. As correctly noted in the Report and Recommendation, the Court lacks jurisdiction to consider the present petition unless leave to file a successive § 2254 petition is granted by the Fifth Circuit. *United States v. Key*, 205 F.3d 773, 774 (5th Cir. 2000). If he wishes, Petitioner may file a motion with the Fifth Circuit asking permission to file another petition. Until Petitioner shows the Fifth Circuit granted permission to file a successive petition, however, this Court may not review it. Petitioner's objections are without merit.

In sum, the Report of the Magistrate Judge, which contains proposed findings of fact and recommendations for the disposition of the case, has been presented for consideration. The Court conducted a *de novo* review of the objections raised by Petitioner to the Report, and concludes that the findings and conclusions of the Magistrate Judge are correct, and adopts the same as the findings and conclusions of the Court.

It is accordingly **ORDERED** the petition for writ of habeas corpus is **DISMISSED** without prejudice. Petitioner's objections are **OVERRULED**.

It is also **ORDERED** that all motions by either party not previously ruled on are hereby **DENIED**.

SIGNED this 26th day of September, 2019.



AMOS L. MAZZANT
UNITED STATES DISTRICT JUDGE